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JUDGE WOODS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

15 CV 9214

Jonathan Corbett, Plaintiff v. City of New York, Officer Does 1 – 4 Defendants	15-CV-________ **COMPLAINT FOR CIVIL RIGHTS ACT VIOLATIONS, 42 USC § 1983, AND RELATED COMMON-LAW TORTS** **JURY DEMANDED**

U.S. DISTRICT COURT
2015 NOV 23 PM
S.D. OF N.Y.
FILED

SUMMARY

1. On February 7th, 2015, Plaintiff Jonathan Corbett ("CORBETT") reported the death of his girlfriend to the New York City Police Department ("NYPD").

2. As a matter of policy and general practice, and with no particularized reason of suspecting CORBETT of wrongdoing, CORBETT was transported to the police precinct without his consent and held for 3 hours, during which he was not free to leave.

3. This policy has a devastating emotional impact on those who are freshly traumatized by the death of a loved one and constituted an unreasonable seizure of CORBETT's person, thus violating CORBETT's Fourth Amendment rights and New York constitutional rights, and creating a claim under the federal Civil Rights Act, 42 USC § 1983.

JURY TRIAL

4. Plaintiff Jonathan Corbett ("CORBETT") demands a jury trial.

PARTIES

5. CORBETT is an individual residing in Miami-Dade County, Florida, and a "part-year" resident of the New York State.

6. Defendant City of New York is the city incorporated by and through the laws of the State of New York and is the entity responsible for its New York City Police Department.

7. Defendants Officer Does 1 – 4 are unnamed police officers of the NYPD:
    a. Officer Doe 1 is the supervisor on the scene that directed Officer Doe 2 to detain and transport CORBETT,
    b. Officer Doe 2 is the officer who detained and transported CORBETT,
    c. Officer Doe 3 is a detective who questioned CORBETT at the precinct, and
    d. Officer Doe 4 is another detective who questioned CORBETT at the precinct.

JURISDICTION & VENUE

8. This Court has subject matter jurisdiction under 42 USC § 1983 (the "Civil Rights Act") and 28 USC § 1331.

9. This court has subject matter jurisdiction under 28 U.S.C. § 1367 ("supplemental jurisdiction") over the state law claims related to the federal claims.

10. Venue is appropriate because Defendant City of New York is a city largely within the district boundaries for this Court and the NYPD is headquartered within this district.

11. Venue is further appropriate because NYPD rules require its officers, with limited exceptions, to reside within the City of New York, and therefore it is likely that the remaining "Officer Doe" defendants also reside either within this district or at most a few miles to the east.

12. Finally, venue is appropriate because the incident that gave rise to the complaint occurred within the district boundaries for this Court.

ALLEGATIONS OF FACT

13. On February 7th, 2015, at 4:02 AM, CORBETT's girlfriend took her own life while on the phone with CORBETT.

14. Unsure of what he had heard on the phone, at that time CORBETT traveled to his girlfriend's apartment on West 33rd Street in Manhattan, arriving at 4:18 AM.

15. CORBETT found his girlfriend unresponsive and called Defendant City of New York's NYPD, via its 911 system, to summon assistance.

16. The first officers[1] arrived on the scene at approximately 4:22 AM, and within 15 minutes there were at least 8 officers on the scene.

17. After CORBETT instructed the officers on how to reach his girlfriend, the officers asked for identification, and CORBETT produced his Florida driver's license.

18. An officer then asked CORBETT to step into another room to discuss what had happened, which CORBETT did consensually and spoke with several officers.

19. However, at approximately 4:50 AM, an officer ("Officer Doe 1"), who appeared to be a supervisor based on the fact that he was giving directions to other officers, instructed one of the officers to "take [CORBETT] back to the precinct."

20. Either Officer Doe 1 or another officer then said to CORBETT something to the effect of, "Hold tight, this is going to be a long night for you."

21. At this point, it was clear to CORBETT that he was no longer free to go.

22. At no point did the officers ask for CORBETT's consent in any way to transport him to the police precinct.

23. At no point, until his release, did the officers inform or do anything to suggest to CORBETT that his participation was voluntary, and at all times CORBETT was directed, as opposed to requested, as to where to move or remain.

24. Adding to the emotional trauma, Officer Doe 1 & Officer Doe 2 repeatedly refused to answer CORBETT when he asked if his girlfriend was dead, or to allow him to speak to medical staff to get an answer.

25. Her death was confirmed to CORBETT by a civilian onlooker who told him that he overhead paramedics noting that his girlfriend was no longer with us.

26. CORBETT was directed into a squad car and transported to the Midtown South Precinct on West 35th Street in Manhattan by an officer ("Officer Doe 2") as directed by Officer Doe 1.

27. CORBETT was directed into a room by Officer Doe 2, and Officer Doe 2 was assigned to guard him at all times.

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[1] All references to "officers" herein are to police officers of the NYPD.

28. Officer Doe 2 was not a detective, did not ask CORBETT any questions, and served no purpose other than to ensure that CORBETT did not leave.

29. CORBETT waited in the room, under guard of Officer Doe 2, for detectives to arrive for about 2 hours, save for a bathroom break during which Officer Doe 2 followed CORBETT to the bathroom door and remained there to escort CORBETT back to the room.

30. During this time, CORBETT experienced excruciating emotional trauma, having to process the shocking death of a loved one without the support of his friends, his family, or medical professionals, and instead being non-consensually locked away in the back of a police precinct.

31. Two detectives ("Officer Doe 3" and "Officer Doe 4") arrived at approximately 6:50 AM, questioned CORBETT for about half an hour, and informed CORBETT that he was free to go at approximately 7:20 AM.

32. This timeframe indicates 2.5 hours of detention without consent.

33. At no time did any of the at least 8 police officers on the scene (including Officers Doe 1 & 2), the 2 detectives in the precinct (Officers Doe 3 & 4), or any other police officers in the precinct say or do anything to indicate that they thought that CORBETT's detention was anything other than standard procedure.

34. At no time was there anything to indicate any reasonable suspicion or probable cause that CORBETT committed any wrongdoing.

35. In fact, evidence was immediately available to prove that CORBETT was not in the building at the time of the death: the building is a luxury building with a doorman and cameras, either of which could have confirmed that 1) CORBETT's girlfriend entered the building alone minutes before her death, and 2) CORBETT arrived approximately 15 minutes after a neighbor reported hearing his girlfriend scream[2].

36. The Office of the Chief Medical Examiner subsequently ruled the death a suicide, and the NYPD closed the case as such, without levying charges against any party.

[2] The manner of death was a fall from a 31st floor apartment to an adjacent roof of a 7 story building. The neighbor who heard the scream was on the 7th floor. It is, therefore, certain that he heard her final voice, rather than a scream from her apartment well prior to her death.

37. CORBETT continues to suffer severe emotional distress from this incident as of the date of filing this complaint.

38. While CORBETT certainly would have some continued emotional distress stemming from the death of his girlfriend even if the NYPD had not unlawfully detained him, he suffers *additional* emotional distress that he would not have but for the unlawful detention.

39. CORBETT filed a timely Notice of Claim (see N.Y. GMU. LAW § 50-e) with the City of New York on April 17th, 2015.

CLAIMS FOR RELIEF

Count 1: Civil Rights Act, 42 USC § 1983

40. Defendant City of New York, as any municipality, is liable for the actions of its police officers when those officers act out of established "pattern or practice" known to the municipality.

41. CORBETT was transported and detained for 2.5 hours by the NYPD, with neither his consent nor probable cause.

42. While Defendant may make a colorable argument that they had reasonable suspicion of a crime[3], or were authorized to briefly detain CORBETT in an "investigative stop," the duration of the seizure plus the forced transportation of CORBETT far exceed the lawful boundaries of a stop predicated on reasonable suspicion or an investigative stop.

43. Any suspicion was weakened by the fact that CORBETT was the one who summoned police assistance, he lead officers to the scene of the incident, he provided the officers with his identification, and he cooperated with the officers during the time before which it was clear that he was being detained.

44. Thus, the NYPD's detention of CORBETT was a violation of his Fourth Amendment rights under the U.S. Constitution.

[3] CORBETT does not concede that there was reasonable suspicion to hold him. Rather, he points out that the more complicated question of reasonable suspicion is unnecessary to answer because the NYPD's actions were unlawful regardless of whether or not reasonable suspicion was present.

45. Thus, the NYPD's detention of CORBETT was also a violation of his rights under N.Y. Const., Article 1, § 12.

46. The remark by an officer to CORBETT that CORBETT was "in for a long night" indicates that CORBETT's detention was a regular practice in the circumstances at hand because the officer knew exactly what was to happen with CORBETT, and were not merely making things up as they went along.

47. The fact that CORBETT's detention was conducted by and in front of at least 8 officers on the scene, 2 detectives, and countless other officers in the precinct, without any objection from any of them, is evidence that CORBETT's detention was regular practice in the circumstances at hand.

48. From the above, it is reasonable to infer, and discovery will prove, that the officers acted in accordance with established NYPD pattern or practice.

49. The City of New York is therefore liable to CORBETT for the actions of its officers who violated his constitutional rights, as redressable by the Civil Rights Act, 42 USC § 1983.

Counts 2 - 5: Civil Rights Act, 42 USC § 1983

50. Defendants Officers Doe 1 – 4, together and separately, participated in violating CORBETT's rights as described above under ¶¶ 40 – 49.

51. Specifically:

    a. Officer Doe 1 directed his subordinate to violate CORBETT's rights by detaining him without lawful authority for what was clear to the officers on-scene to likely be "a long night" (Count 2).
    b. Officer Doe 2 complied with the unlawful directive of Officer Doe 1 and detained CORBETT without lawful authority for what was clear to the officers on-scene to likely be "a long night" (Count 3).
    c. Officer Does 3 & 4 knew, or should have known, that CORBETT was being unlawfully detained, and had the authority to immediately release him, but did not, and instead, continued to hold CORBETT until they had finished asking him questions and then, and only then, informed CORBETT that he was free to go, thus removing any possible remaining doubt that before that point he was not, in fact, free to go (Counts 4 and 5, respectively).

52. Defendants Officers Doe 1 – 4 are therefore individually liable to CORBETT for violating his federal (Fourth Amendment) and state (N.Y. Const., Article 1, § 12) constitutional rights, as redressable by the Civil Rights Act, 42 USC § 1983.

Counts 6 - 9: Intentional Infliction of Emotional Distress

53. Defendants Officers Doe 1 – 4, as described above under ¶¶ 40 – 49, held CORBETT without lawful authority at a time when doing so would be particularly traumatizing.

54. It is obvious to any human being that one who is processing the sudden death of a loved one is undergoing a significant emotional trauma.

55. It is obvious to any human being that holding one in the back room of a police station, rather than allowing them to receive support from friends, family, and medical professionals, will exacerbate that emotional trauma.

56. As the officers are human beings, the officers proceeded with intent to, or at a minimum, disregard for a substantial probability that they would, add to CORBETT's trauma, and yet the officers continued along the path they chose anyway.

57. That the officers would proceed with the unlawful detention of someone who suffered such great loss only moments prior shows a lack of empathy that rises to the level of outrageous conduct.

58. CORBETT sustained, and continued to sustain, severe emotional distress as a result of the unlawful actions of the officers that he would not have but for those unlawful actions.

59. Defendants Officers Doe 1 – 4 (respectively, Counts 6 – 9) are therefore liable to CORBETT under a theory of common-law intentional infliction of emotional distress.

Counts 10 - 13: Negligent Infliction of Emotional Distress

60. Defendants Officers Doe 1 – 4, as described above under ¶¶ 40 – 49, held CORBETT without lawful authority at a time when doing so would be particularly traumatizing.

61. CORBETT re-alleges ¶¶ 53 – 59.

62. In the event that the officer's behavior cannot be proven to have been intentional, it was certainly negligent, as the officers had a duty not to harm someone in their custody, they breached that duty, and that breach caused injury to CORBETT.

63. Defendants Officers Doe 1 – 4 (respectively, Counts 10 – 13) are therefore liable to CORBETT under a theory of common-law intentional infliction of emotional distress.

Counts 14 - 17: False Light Invasion of Privacy

64. Defendants Officers Doe 1 – 4, as described above under ¶¶ 40 – 49, held CORBETT without lawful authority.

65. In furtherance of that, the officers held CORBETT in the lobby of a large residential building while on-lookers watched.

66. In furtherance of that, the officers escorted CORBETT out of the building in front of multiple on-lookers.

67. In furtherance of that, the officers directed CORBETT into a squad car on a street right next to Penn Station, in view of the large number of people that pass that area 24 hours per day.

68. In furtherance of that, the officers led CORBETT from the squad car into the precinct, in view of anyone walking by the precinct.

69. A reasonable person in the lobby of the apartment building may have concluded that the police thought that CORBETT was responsible for his girlfriend's death.

70. A reasonable person on the streets near Penn Station or the police precinct may have concluded that CORBETT was under arrest.

71. A reasonable person would, and CORBETT in fact does, find the implications expressed above in ¶¶ 69, 70, to be highly offensive.

72. Defendants Officers Doe 1 – 4 (respectively, Counts 14 – 17) are therefore liable to CORBETT under a theory of common-law invasion of privacy for placing CORBETT under the false light that he was wrongfully involved in the incident described.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

a) Declaratory relief stating that the NYPD's pattern or practice of detaining individuals in CORBETT's situation is unlawful.

b) Injunctive relief requiring the NYPD to adjust its policies regarding such situations and to properly (re-)train its officers of the new policy.

c) Actual and punitive damages against the City of New York totaling the amount of $1,000,000.00 for the constitutional injury in Count 1.

d) Actual and punitive damages against each of the Officers Doe 1 – 4 in the amount of $1,000,000 for their violation of CORBETT's rights under the Civil Rights Act and tort claims against them (Counts 2 – 17).

e) Cost of the action.

f) Reasonable attorney's fees, should CORBETT retain an attorney[4].

g) Any other such relief as the Court deems appropriate.

Dated: New York, NY

November 23rd, 2015

Respectfully submitted,

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[4] CORBETT is presently representing himself in this action *pro se*, and is not seeking attorney's fees for any *pro se* work. CORBETT only seeks attorney's fees in the event that he retains an attorney at a later point, and only for the work completed by said attorney.